

FIRST REGULAR SESSION

HOUSE BILL NO. 1367

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARDWICK.

2710H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 211.071, RSMo, and to enact in lieu thereof one new section relating to the certification of a juvenile for trial as an adult.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 211.071, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.071, to read as follows:

211.071. 1. If a petition alleges that a child between the ages of twelve and eighteen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section 569.020 as it existed prior to January 1, 2017, ~~[or]~~ robbery in the first degree under section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, ~~[or]~~ the manufacturing of a controlled substance under section 579.055, **vehicle hijacking under section 570.027, stealing under subdivision (3) of subsection 3 of section 570.030, or armed criminal action under section 571.015**, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion,

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 dismiss the petition and transfer the child to a court of general jurisdiction for prosecution
19 under the general law.

20 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly
21 committed by any person between eighteen and twenty-one years of age over whom the
22 juvenile court has retained continuing jurisdiction shall automatically terminate and that
23 offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.

24 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect
25 any action or proceeding which occurs based upon the misrepresentation. Any evidence
26 obtained during the period of time in which a child misrepresents his or her age may be used
27 against the child and will be subject only to rules of evidence applicable in adult proceedings.

28 4. Written notification of a transfer hearing shall be given to the juvenile and his or
29 her custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the
30 hearing may be waived by the custodian. Notice shall contain a statement that the purpose of
31 the hearing is to determine whether the child is a proper subject to be dealt with under the
32 provisions of this chapter, and that if the court finds that the child is not a proper subject to be
33 dealt with under the provisions of this chapter, the petition will be dismissed to allow for
34 prosecution of the child under the general law.

35 5. The juvenile officer may consult with the office of prosecuting attorney concerning
36 any offense for which the child could be certified as an adult under this section. The
37 prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or
38 deputy juvenile officer, statements of witnesses and all other records or reports relating to the
39 offense alleged to have been committed by the child. The prosecuting or circuit attorney shall
40 have access to the disposition records of the child when the child has been adjudicated
41 pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall
42 not divulge any information regarding the child and the offense until the juvenile court at a
43 judicial hearing has determined that the child is not a proper subject to be dealt with under the
44 provisions of this chapter.

45 6. A written report shall be prepared in accordance with this chapter developing fully
46 all available information relevant to the criteria which shall be considered by the court in
47 determining whether the child is a proper subject to be dealt with under the provisions of this
48 chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice
49 system. These criteria shall include but not be limited to:

50 (1) The seriousness of the offense alleged and whether the protection of the
51 community requires transfer to the court of general jurisdiction;

52 (2) Whether the offense alleged involved viciousness, force and violence;

53 (3) Whether the offense alleged was against persons or property with greater weight
54 being given to the offense against persons, especially if personal injury resulted;

55 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which
56 indicates that the child may be beyond rehabilitation under the juvenile code;

57 (5) The record and history of the child, including experience with the juvenile justice
58 system, other courts, supervision, commitments to juvenile institutions and other placements;

59 (6) The sophistication and maturity of the child as determined by consideration of his
60 or her home and environmental situation, emotional condition and pattern of living;

61 (7) The age of the child;

62 (8) The program and facilities available to the juvenile court in considering
63 disposition;

64 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
65 available to the juvenile court; and

66 (10) Racial disparity in certification.

67 7. If the court dismisses the petition to permit the child to be prosecuted under the
68 general law, the court shall enter a dismissal order containing:

69 (1) Findings showing that the court had jurisdiction of the cause and of the parties;

70 (2) Findings showing that the child was represented by counsel;

71 (3) Findings showing that the hearing was held in the presence of the child and his or
72 her counsel; and

73 (4) Findings showing the reasons underlying the court's decision to transfer
74 jurisdiction.

75 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting
76 attorney.

77 9. When a petition has been dismissed thereby permitting a child to be prosecuted
78 under the general law and the prosecution of the child results in a conviction, the jurisdiction
79 of the juvenile court over that child is forever terminated, except as provided in subsection 10
80 of this section, for an act that would be a violation of a state law or municipal ordinance.

81 10. If a petition has been dismissed thereby permitting a child to be prosecuted under
82 the general law and the child is found not guilty by a court of general jurisdiction, the juvenile
83 court shall have jurisdiction over any later offense committed by that child which would be
84 considered a misdemeanor or felony if committed by an adult, subject to the certification
85 provisions of this section.

86 11. If the court does not dismiss the petition to permit the child to be prosecuted under
87 the general law, it shall set a date for the hearing upon the petition as provided in section
88 211.171.